

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1193 of 2015

Date of Decision: 21.4.2015

Mahender Singh

....Petitioner.

Versus

The State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Mr. Mohit Rathee, Advocate for
Mr. Shilak Ram Hooda, Advocate for the petitioner.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

Mr. Pawan Longia, Advocate for respondents No.2 to 4.

AJAY KUMAR MITTAL, J.

1. The petitioner has approached this Court by way of instant petition filed under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of certiorari quashing the notifications dated 17.11.2005 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 7.2.2006 (Annexure P-4) under Section 6 of the Act vide which the land of the petitioner was acquired in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "2013 Act"). Further, a writ of prohibition has been sought prohibiting respondents No.1 to 4 from taking physical possession of the land of the petitioner as the acquisition proceedings stand lapsed in view of Section 24(2) of the 2013 Act.

2. As per the averments made in the petition, the land measuring 13 kanal 14 marlas situated at village Asawarpur, District Sonapat is owned by the petitioner as dholdar along with other dohlidars who had transferred their shares vide mutation dated 29.4.1989 (Annexure P-1). Government of Haryana vide notification dated 17.11.2005 (Annexure P-3) issued under Section 4 of the Act followed by notification dated 7.2.2006 (Annexure P-4) acquired the land of the petitioner for public purpose, for the development and utilization of the land for residential, institutional and commercial Sectors 65 to 68, Urban Estate, Sonapat. The petitioner filed objections under Section 5-A of the Act. The award was passed on 2.3.2006. The petitioner filed a representation dated 16.5.2011 to the Director General, Urban Estate Department, Haryana, Panchkula for the release of his land who vide letter dated 22.7.2011 (Annexure P-6) sought recommendations from respondent No.3. As per site plan dated 8.3.2014 (Annexure P-7), the land of the other landowners surrounded by the land of the petitioner stands released. According to the petitioner, he is still in physical possession of the land in dispute. No compensation has been paid to him. Claim has been laid that the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner is in physical possession of the land in dispute and compensation has not been paid to him. It was claimed that in such circumstances, in view of Section 24(2) of the 2013 Act, the notifications under Sections 4 and 6 of the Act had lapsed. It was further submitted that since no demand notice claiming the relief as claimed in respect of lapse of notifications has been filed with the respondents, liberty be

granted to the petitioner to file a detailed and comprehensive representation before the appropriate authority by incorporating the grievance as raised in the present writ petition, however, direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioner to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before the appropriate authority. It is directed that in the event of a representation being filed by the petitioner within a period of two months from today, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to him within a period of four months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate her claim before the concerned authority. Till the matter is decided by the said authority, status quo shall be maintained by the parties.

(AJAY KUMAR MITTAL)
JUDGE

April 21, 2015
gbs

(SHEKHER DHAWAN)
JUDGE